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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

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FILE: B-193664

DATE: January 22, 1979

MATTER OF: Solarex Manufacturing Co., Inc. DLG 00725

*Small Business Administration [Decision Not to Issue Certificate of Competency  
Will Not Be Reviewed by GAO]*

DIGEST:

Where small business concern is found to be nonresponsible by procuring agency, SBA's denial of COC is viewed as affirmative determination of non-responsibility and not for review by GAO.

Solarex Manufacturing Co., Inc. (Solarex), protests the award of a contract to Capital Engineering & Manufacturing Co. by the Department of the Army under invitation for bids No. DAAE07-78-B-A432. Solarex was determined nonresponsible by the Army, which was affirmed when the Small Business Administration (SBA) declined to issue Solarex a certificate of competency (COC). Solarex contends that the reasons for the SBA denial are weak and irrelevant. Solarex also suggests that there was something improper in the Army surveying its proposed subcontractor after Solarex had applied for a COC at the SBA New York Regional Office "with apparent approval." In addition, Solarex suggests some impropriety in the relationship between the Army and the SBA office in Washington, D.C., which denied the COC, and the 6-week delay before Washington acted.

It is our policy not to review a contracting officer's determination of nonresponsibility where the determination has been affirmed by SBA's denial of a COC. Our Office will consider a protest where there is prima facie showing of fraud or where the record shows that vital information has not been considered. Mainline Carpet Specialists, Inc.-- Reconsideration, B-188792, July 14, 1977, 77-2 CPD 27.

The record shows that pursuant to Defense Acquisition Regulation (DAR) § 1-705.4(c) (1976 ed.)

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the contracting officer referred his nonresponsibility determination to SBA's New York office. Upon learning that the latter office was recommending that the SBA office in Washington issue a COC, he appealed this recommendation to Washington pursuant to DAR § 1-705.4(ii). The Army presented its case against award to Solarex to the Washington office in the presence of the New York SBA representative who had made the field survey. SBA denied the COC because it believed Solarex did not have the productive or financial capability to perform the procurement satisfactorily. SBA believed that logistical problems would occur because of the extensive subcontracting program that was proposed by Solarex and that there was no reasonable assurance that Solarex would meet the required delivery schedule. Notwithstanding Solarex's suggestions of improprieties, the record indicates that applicable regulations were followed and there is no evidence of fraud or that the determination was made without consideration of vital information.

Therefore, the protest is dismissed.



Milton J. Socolar  
General Counsel